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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 TONY D. PENWELL,)
09 Plaintiff,) CASE NO. C05-2106-TSZ-MAT
10 v.)
11 REED HOLTGEERTZ, *et al.*,) ORDER DENYING DEFENDANTS'
12 Defendants.) MOTION FOR SUMMARY
JUDGMENT
_____)

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14 The Court, having reviewed the Report and Recommendation of United States
15 Magistrate Judge Mary Alice Theiler, docket no. 135, to which no objections have been filed,
16 the governing law, and the balance of the record, does hereby find and ORDER:

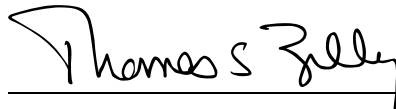
- 17 (1) The Report and Recommendation is ADOPTED;
18 (2) Defendants' renewed motion for summary judgment on the First Amendment,
19 free-exercise claim (Dkts. 81, 129) is DENIED;
20 (3) Plaintiff's opposition briefs in 2007 (Dkt. 96, at 13) and 2011 (Dkt. 127, at 3–5)
21 are CONSTRUED to be motions to amend the complaint to add a Religious
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01 Land Use and Institutionalized Persons Act of 2000 ("RLUIPA") claim and are
02 GRANTED;

03 (4) Plaintiff is GRANTED leave to file **within thirty (30) days of the date of this**
04 **order** (a) an updated application to proceed *in forma pauperis* and (b) a renewed
05 motion for appointment of counsel; and

06 (5) The Clerk of Court is directed to send copies of this Order to plaintiff and to
07 Magistrate Judge Mary Alice Theiler.

08 DATED this 16th day of August, 2011.

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11 Thomas S. Zilly
12 United States District Judge
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